

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

9400-37/BLS030079

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on July 31, 2006Signature Typed or printed name Traci A. Brown

Application Number

10/732,784

Filed

December 10, 2003

First Named Inventor

Joseph Patrick Dennison

Art Unit

2617

Examiner

Sharad K. Rampura

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☒ attorney or agent of record.
Registration number 42,011☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

Signature

D. Scott Moore

Typed or printed name

(919) 854-1400

Telephone number

July 31, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



**RESPONSE UNDER 37 C.F.R. 1.116
EXPEDITED PROCEDURE--EXAMINING GROUP 2142**

Attorney's Docket No. 9400-37

In re: Dennison et al.

Serial No.: 10/732,784

Filed: December 10, 2003

For: **METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR
TRANSMITTING STREAMING MEDIA TO A MOBILE TERMINAL USING
THE BANDWIDTH ASSOCIATED WITH A WIRELESS NETWORK**

PATENT

Confirmation No.: 6907

Group Art Unit: 2617

Examiner: Sharad K. Rampuria

Date: July 31, 2006

Mail Stop AF

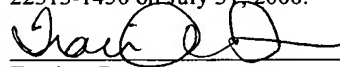
Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Certificate of Mailing under 37 CFR § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 31, 2006.


Traci A. Brown

**REASONS IN SUPPORT OF APPLICANT'S PRE-APPEAL
BRIEF REQUEST FOR REVIEW**

Sir:

This document is submitted in support of the Pre-Appeal Brief Request for Review filed concurrently with a Notice of Appeal in compliance with 37 C.F.R. 41.31 and with the rules set out in the OG of July 12, 2005 for the New Appeal Brief Conference Pilot Program, which have been extended indefinitely

No fee or extension of time is believed due for this request. However, if any fee or extension of time for this request is required, Applicant requests that this be considered a petition therefor. The Commissioner is hereby authorized to charge any additional fee, which may be required, or credit any refund, to our Deposit Account No. 50-0220.

REMARKS

Applicants hereby request a Pre-Appeal Brief Review (hereinafter "Request") of the claims finally rejected in the Final Office Action mailed April 18, 2006 (hereinafter "Final Action"). The Request is provided herewith in accordance with the rules set out in the OG dated July 12, 2005.

Applicants respectfully submit that the rejections of the currently pending claims are clearly erroneous because many of the recitations of the pending claims are not met by the cited references for at least the reasons discussed herein and in Applicants' previously filed Amendment of January 31, 2006. Therefore, Applicants respectfully request review of the present application by an appeal conference prior to the filing of an appeal brief. In the interest of brevity and without waiving the right to argue additional grounds should this Petition be denied, Applicants will only discuss the recitations of independent Claims 1, 12, and 23.

Independent Claims 1, 12, and 23 are Patentable

Independent Claims 1, 12, and 23 stand rejected under 35 U.S.C. § 103 as being unpatentable over United States Patent Publication No. 2004/0057420 to Curcio *et al.* (hereinafter "Curcio") in view of United States Patent Publication No. 2003/0224781 to Milford *et al.* (hereinafter "Milford"). (Final Action, page 3). Independent Claim 1 recites, in part:

providing a wireless communication network that has bandwidth associated therewith to facilitate communication between at least one mobile terminal and another communication device;

obtaining authorization from a media broadcaster that provides streaming media to rebroadcast the streaming media over the wireless network;

obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media; then

transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network. (Emphasis added).

Independent Claims 12 and 23 include similar recitations. As highlighted above, authorization is obtained from a media broadcaster to rebroadcast streaming media over a wireless network. A subscription is obtained at the wireless network from one or more mobile terminals for the streaming media.

The Final Action acknowledges that Curcio fails to teach the recitations of independent Claim 1 highlighted above, but alleges that Milford provides the missing teachings. (Final Action, page 3). Applicants acknowledge that Milford describes a service broker that is used to manage telecommunications services, such that users may subscribe to one or more deployable services. (Milford, paragraph 44). Applicants submit, however, that even if the teachings of Curcio and Milford are combined, they do not teach all of the recitations of the independent claims. Specifically, Curcio describes a method for packet switched streaming of media in which a client device 101 communicates directly with a streaming server 111 to initiate a streaming session. Curcio explains these operations in paragraphs 61 and 76 as follows:

[0061] In a preferred embodiment of the invention, a streaming session is initiated between the client device 101 and the streaming server 111. RTSP (Real Time Streaming Protocol) protocol is used in the streaming session setup. Once the session has been established, the streaming itself may be performed (i.e. media flow may be sent) according to RTP (Real time Transport Protocol) or another protocol. However, if it is desired to make a change in the established session, this will again be done by using RTSP.

...

[0076] A preferred embodiment of the invention presents a client-server based method, wherein the client 101 monitors the changes in the available air-interface downlink bandwidth for streaming media. If the available bandwidth changes, for example due to changes in the time slot configuration or coding scheme (or modulation and coding scheme), the client 101 detects the change of the available bandwidth and requests the streaming server 111 to adapt the server bandwidth. By the term 'server bandwidth' is meant the transmission bit rate at which the server sends the streaming media.


Thus, Curcio describes a method in which the client device 101 and the streaming server 111 communicate with each other in establishing a streaming session over a radio access network 102 to which the client device 101 is connected. Accordingly, if the teachings of Milford were to be combined with the teachings of Curcio, then the result would appear to be a modification of the streaming server 111 to include a streaming media service broker that would allow the client device 101 to subscribe to the streaming media. The combination of Curcio and Milford does not appear to disclose or suggest, however, obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media as recited in the independent claims. As described above, the combination of Milford and

Curcio describes a method in which a client device obtains a subscription from the streaming server, not the radio access network. Moreover, the combination of Curcio and Milford does not appear to contain any disclosure related to obtaining authorization from a media broadcaster that provides the streaming media to rebroadcast the streaming media over the wireless network as recited in the independent claims. The only communication described in Curcio appears to be between the streaming server 111 and the client device 101. Applicants can find no disclosure therein related to the radio access network 102 obtaining authorization to rebroadcast the streaming media from the streaming server 111 to the client device 101.

In response to Applicants' amendment mailed January 31, 2006, the Final Action alleges that one skilled in the art would be motivated to combine the teachings of Curcio and Milford. (Final Action, pages 15 and 16). As explained above, however, Applicants respectfully submit that, even if Curcio and Milford are combined, their combined teachings do not disclose or suggest, at least, obtaining authorization from a media broadcaster that provides the streaming media to rebroadcast the streaming media over the wireless network and obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media as recited in the pending independent claims.

For at least the foregoing reasons, Applicants respectfully request that the present application be reviewed and that the rejection of independent Claims 1, 12, and 23 be reversed by the appeal conference prior to the filing of an appeal brief.

Respectfully submitted,



D. Scott Moore
Registration No. 42,011

USPTO Customer No. 20792
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: (919) 854-1400
Facsimile: (919) 854-1401